



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

CMP/AMC
F. #2011R00414

*271 Cadman Plaza East
Brooklyn, New York 11201*

January 24, 2014

By Hand Delivery, Email and ECF

The Honorable Nina Gershon
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Dunn, Hymowitz and Freeman
Criminal Docket No. 11-683 (S-2)(NG)

Dear Judge Gershon:

The government respectfully submits this letter in response to the Court's request for additional information regarding the superseding indictment (S-2) that was returned in the above-referenced case on January 23, 2014,¹ which is attached hereto (the "S-2 Indictment"). The S-2 Indictment contains the following substantive changes:

1. The defendants who have previously pleaded guilty are no longer named in the indictment.
2. The previous wire fraud conspiracy count (Count Two) has been changed to charge conspiracy to commit mail and wire fraud, and a mail fraud charge against all three defendants (Count Three) has been added. This charge is part of the same fraudulent scheme identified in the original and S-1 indictments.
3. The defendants Lee Hymowitz and Michael Freeman are no longer charged in the substantive wire fraud counts relating to the John Doe #2 kickback payments (Counts Six and Seven in the S-2 Indictment).
4. The specified unlawful activity identified in the money laundering charges (Racketeering Act Six and Counts Eight and Nine of the S-2 Indictment) is now wire fraud, not extortion and wire fraud, as previously charged.

¹ The S-2 indictment was incorrectly stamped "January 22, 2014."

5. Paragraph Two of the Introduction now specifies the New York City Department of Housing Preservation and Development (“HPD”) programs that are at issue in this trial – namely, the Neighborhood Homes and HomeWorks programs – and deletes the prior reference to the New Construction program, which is not relevant to these defendants. Paragraph Two further states that the U.S. Department of Housing and Urban Development and private lenders were HPD’s partners in the Neighborhood Homes and HomeWorks programs, and accordingly, the victims of the defendants’ schemes are now specified as “HPD and its partners.”

The government respectfully notes that none of these changes in the S-2 Indictment involve new evidence that has not already been disclosed to the defendants in discovery.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: /s/ Cristina M. Posa
Cristina M. Posa
Anthony M. Capozzolo
Assistant U.S. Attorneys
(718) 254-6668/6454